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File No. D. Essential Supplies (T.P.)/52

Legal Deptt.

A BRANCH

Subject:— Opinions under the Essential Supplies (Temporary Powers) Act, 1946.

File No. D. Essential Supplies (T.P.)/52

Opn. 194

206-A

C O N T E N T S.

Legal Department File No. C. Essential Supplies (T.P.)/52.

Sr. No.	Compilation No.	Subject	Pages.
		Opinions Under the Essential Supplies (Temporary Powers) Act, 1946.	
--	O.No. 0664 31/12/51.	Prosecution for offences against Control Orders of The Bhar State.....	1-2.
2.	O.No. 221 9/1/52.	Bhar Vegetable Oil Products Control Order 1946 cannot be considered to be in force after 14-6-48.....	3-4.
3.	O.No. 826-Confl. 22/5/52.	Sec. 3 --- Sugar and Gur (Futures and Options) Prohibition Order, 1951, --- Investigation of offences under	5-6.

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6/6.

Office of the R. L. A.

As regards the suggestion to launch prosecution for offences committed for the breach of control orders of the Idar State, apart from the question that the said offences had taken place long before, it would not be legal to launch any prosecution in view of the fact that the control orders of the Idar State were repealed or had lapsed when the Essential Commodities Acts were applied to the area which originally formed part of the State.

The District Government Pleader's proposal to recover as arrears of land revenue the fines imposed under departmental orders is not legally feasible in view of the provisions of section 187 of the Bombay Land Revenue Code

Sd/-

Remembrancer of Legal Affairs.

U.R. to C.S.D., No.G- 664, dated the 31st December 1951.

Rele.M.S.

6/6.

Legal Department.

From the preamble of the Vegetable Oil Products Control Order, 1946 it becomes evident that the Bhar Government issued the said Order on 1st July 1946 in exercise of power conferred by rule 81(2) of the Defence of India Rules. As the Defence of India Act, 1939 and the Defence of India Rules made thereunder, expired on 30th September 1946, to give continuity to certain orders issued under rule 81(2) of the Defence of India Rules for production, supply, distribition etc. of essential commdities, Central Government promulgated the Essential Supplies (Temporary Powers) Ordinance, 1946, which came into force on 1-10-1946. Section 5 of the said Ordinance gives continuity to the orders issued under rule 81(2) of the Defence of India Rules and were deemed to be orders made under section 3 of the said Ordinance. The said Ordinance was replaced by the Essential Supplies (Temporary Powers) Act, 1946. It is not known how long the provisions of the Defence of India Act were kept in force in the Bhar State after the end of the war. In any case the Bhar Vegetable Oil Products Control Order, 1946 could not be considered to be in force in the area after 14-6-1948 on which date the Essential Commodities Acts were applied to that State by Civil Supplies Department Notification No.1080/II, dated the 14th June 1948.

Id/-

9/1.

Additional Secretary to Government.

U.R. to L.S.G. & P.H.D.No. 221, dated the 9th Jan.,1951

OFFICE OF THE R.L.A.

nvestigation
f offence.

By an order called the Sugar and Gur (Futures and Options) (Prohibition) Order, 1951, issued under section 3 of the Essential Supplies (Temporary Powers) Act, 1946, Government have banned futures and options in Sugar and Gur. Under clause 6 of the Order provision is made for appointment of Inspectors for the purposes of the Order and by clause 7 these Inspectors are invested with certain powers. It appears that so far no Inspectors have been appointed and as breaches of the Order have come to light, a question is raised whether the Police are empowered to investigate the offence under their normal powers. Secretary, F.D. considers that they can; but R.L.A. is requested to advise.

2. The view taken by the Secretary, F.D. is correct A breach of the Sugar and Gur (Futures and Options) (Prohibition) Order, 1951, is a cognizable offence and as nospecial mode investigation is provided in the Essential Supplies (Temporary Powers) Act, the Police who have a statutory right to investigate the circumstances of an alleged cognisable crime under the Criminal Procedure Code (See Emp. v. Nazir Ahmed, 47, Bom. L.R. 245 atp. 249 will be competent to investigate it even though they are not appointed Inspectors under the Order. It may be noted that section 11 of the Essential Supplies (Temporary Powers) Act, 1946, requires a report in writing of a public servant to enable the Court to take cognisance of the offence; but the chargesheet which the police would submit on the completion of their investigation would be a report under this section provided the facts constituting the offence are set out therein (see Emp. v. Jayantilal, 44 Bom. L.R. 196). There would be no objection, therefore, to asking the police to investigate

the offence.

Id/-

22/8

Remembrancer of Legal Affairs.

U.R. to F.D.No. 888-Comfl., dated the 22nd August 1958.